

REMARKS

Claims 1-7, 9-16 and 18-21 are presented in the present application, with claims 1, 9, and 15 being the independent claims. Claim 8 was canceled hereby. In summary of the outstanding office action, claims 1-10, 15, 16, and 18-21 stand rejected. Reconsideration of the outstanding rejections to the claims is respectfully requested in view of the following remarks.

The specification was objected to because the specification purportedly does not provide antecedent basis of the an invention submission disclosure form as recited in claims 6 and 20. Applicants submit that claims 6 and 20 were original claims. Accordingly, claims 6 and 20 form part of the specification. For that reason alone, Applicants respectfully submit that the objection is improper.

Claims 1 and 15 were objected to for informalities. Applicants have amended the claims.

Claims 1 and 15 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly clima the subject matter which the applicant regards as the invention.

Applicants have amended claims 1 and 15 and respectfully request reconsideration of the rejection.

Claims 8, 15, 16, and 18-21 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Applicants have canceled claim 8. Applicants have amended claim 15 to indicate that processing means are provided. Applicants submit that claims 15, 16, and 18-21 are directed to statutory subject matter.

Claims 1, 2, 4, 7-10, 15, 16, 18, and 21 were rejected under 35 USC § 103(a) as being unpatentable over “drugstore.com – online pharmacy & drugstore, prescriptions filled”

(“drugstore.com”) in view of Applicant Admitted Prior Art (APA). Without admitting that drugstore.com is prior art or the characterization of the background is correct, the outstanding rejection to claims 1, 2, 4, 7-10, 15, 16, 18, and 21 based on drugstore.com in view of APA is respectfully traversed.

Regarding the rejection of independent claims 1 and 15, the Examiner indicated that drugstore.com teaches the claimed “accepting on said web site a submission indicative of an unmet need relating to the medical products from a plurality of users.” In particular, the Examiner has opined that drugstore.com discloses: “Does fish oil help lower cholesterol?” Office Action, p. 7.

Applicants respectfully disagree the noted portion of drugstore.com teaches accepting on said web site a submission indicative of an unmet need relating to the medical products from a plurality of users and note that the page of drugstore.com web site relied upon in the Office Action,

<http://web.archive.org/web/20000208084226/www.drugstore.com/pharmacy/ayp/default.asp?trx=2113> (“page 4”), allows a user to ask a question that may be true or may be false, i.e. it is either true or false that fish oil treats cholesterol. Moreover, if in the particular example the statement is true (i.e. that fish oil does treat cholesterol) then it cannot possibly be an unmet need. In general, (1) typing a key word of the question in the “Search Our Q&As” box and reading questions already answered by pharmacists; or (2) clicking on any of the questions listed under the “Common Questions” section. Applicants submit that drugstore.com has no teaching of “accepting on said web site a submission indicative of an unmet need” as claimed by Applicants.

Moreover, claims 1 and 15 recite the selecting of an unmet need relating to medical products for development. In this way, for example, when the number of submissions for an unmet need, e.g., gynecology, has exceeded a predetermined number, that unmet need may be selected for the development of related medical products. The examiner maintains that such a selection is taught in the background portion of the application. Applicants respectfully disagree.

The fact that health professionals may be in a position to recognize when a product is not commercially available may put them into a position to submit an unmet need, which is the point that is being made in the background section of the document. However, applicants

disagree that that would put them into a position to select an unmet need for development where a predetermined number of “submissions” have been exceeded. Applicants respectfully submit that the examiner has misinterpreted and misapplied the background section of the application. In other words, the background section teaches that a physician “might” notice that, e.g., a 20-30% recurrence rate for pelvic floor prolapse requires a more effective treatment may put that physician in position to make a submission of an unmet need. However, the claim recites an aggregation over a “predetermined number of submissions.” Hence, if an aggregation of doctors noticing a similar unmet need, the system can select such a need for development. The examiner seems not to have considered the language “predetermined number of *submissions*.” Submissions are not recurrences of a disease but rather submissions into the system.

In sum, there is no teaching or suggestion in the cited portion of the drugstore.com web site of “accepting on said web site a submission indicative of an unmet need relating to the medical products.” Moreover, there is no teaching in the APA of “selecting an unmet need for development where a predetermined number of unmet need submissions have the same primary topics” in the manner recited by claims 1 and 15. Therefore, at least for the aforementioned reasons, all of the limitations of claims 1 and 15 are not taught or suggested by drugstore.com alone or in combination with the APA.

Claims 2, 4, and 7-8 depend from claim 1, and are believed allowable for at least the same reasons as described above with respect to claim 1. Similarly, claims 16, 18, and 21 depend from claim 15, and are believed allowable for at least the same reasons as described above with respect to claim 15. Accordingly, reconsideration and withdrawal of the rejection of claims 1-2, 4, 7-8, 15-16, 18, and 21 is respectfully requested.

Regarding the rejection of independent claim 9, the Examiner indicated that drugstore.com teaches the claimed “network accepting an electronic submission indicative of an unmet need for the medical products whereby unmet needs related to the medical products may be determined.” Office action, pp. 9-10. Applicants respectfully disagree and submit that drugstore.com does not teach the claimed “accepting an electronic submission indicative of an unmet need for the medical products whereby unmet needs related to the medical products may be determined” as noted above with respect to claims 1 and 15. The pages of drugstore.com web site relied upon in the Official Action are

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<http://web.archive.org/web/20000310162140/www.drugstore.com/pharmacy/ask.asp>

(“page 3”) and

<http://web.archive.org/web/20000208084226/www.drugstore.com/pharmacy/ask.default.asp?trx=2113> (“page 4”). Page 3 of the drugstore.com web site allows a user who needs “quick, private information” about the user’s “health or medications” to ask a question by typing the question in the “Your question.” box, providing requested information, and clicking on the “Submit Question” button. Page 4 of the drugstore.com web site has been described previously. However, while drugstore.com teaches accepting submissions of a question related to the user’s health or medications, it is not the same as accepting a submission indicative of an unmet need for the medical products, as claimed by Applicants.

Also as noted above, Applicants submit that the APA does not meet the purported missing teaching of drugstore.com. Therefore, at least for the aforementioned reasons, all of the limitations of claim 9 are not taught or suggested by drugstore.com alone or in combination with APA.

Claim 10 depends from claim 9 and is believed allowable for at least the same reasons as described above with respect to claim 9. Accordingly, reconsideration and withdrawal of the rejection to claims 9-10 is respectfully requested.

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Michael J. Swope
Registration No. 38,041

Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439